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SENATE BILL 741

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE INDUSTRIAL REVENUE BOND ACT TO PROVIDE FOR ISSUANCE OF BONDS TO PROMOTE FILMMAKING; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2002, CHAPTER 25, SECTION 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended by Laws 2002, Chapter 25, Section 1 and by Laws 2002, Chapter 37, Section 1) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--

Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

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1           A. "municipality" means ~~[any]~~ a city, town or  
2 village in ~~[the state of]~~ New Mexico;

3           B. "project" means any land and building or other  
4 improvements thereon, the acquisition by or for a New Mexico  
5 corporation of the assets or stock of an existing business or  
6 corporation located outside the state ~~[of New Mexico]~~ to be  
7 relocated within or near the municipality in the state ~~[of New~~  
8 ~~Mexico]~~ and all real and personal properties deemed necessary  
9 in connection therewith, whether or not now in existence,  
10 which shall be suitable for use by the following or by any  
11 combination of two or more thereof:

12                   (1) ~~[any]~~ an industry for the manufacturing,  
13 processing or assembling of ~~[any]~~ agricultural or manufactured  
14 products;

15                   (2) ~~[any]~~ a commercial enterprise in storing,  
16 warehousing, distributing or selling products of agriculture,  
17 mining or industry but does not include ~~[facilities]~~ a  
18 facility designed for the sale of goods or commodities at  
19 retail or distribution to the public of electricity, gas,  
20 water or telephone or other services commonly classified as  
21 public utilities;

22                   (3) ~~[any]~~ a business in which all or part of  
23 the activities of the business involve the supplying of  
24 services to the general public or to governmental agencies or  
25 to a specific industry or customer but does not include

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1 [establishments] an establishment primarily engaged in the  
2 sale of goods or commodities at retail;

3 (4) [~~any~~] a water distribution or irrigation  
4 system, including without limitation, pumps, distribution  
5 lines, transmission lines, towers, dams and similar facilities  
6 and equipment, designed to provide water to [~~any~~] a vineyard  
7 or winery;

8 (5) [~~any~~] an electric generation facility  
9 other than one for which both location approval and a  
10 certificate of convenience and necessity are required prior to  
11 commencing construction or operation of the facility, pursuant  
12 to the Public Utility Act and Electric Utility Industry  
13 Restructuring Act of 1999; [~~and~~]

14 (6) [~~any~~] a 501(c)(3) corporation; and

15 (7) the production or postproduction of  
16 films, of which at least eighty percent of the employees are  
17 residents of New Mexico.

18 C. "governing body" means the board or body in  
19 which the legislative powers of the municipality are vested;

20 D. "property" means any land, improvements  
21 thereon, buildings and any improvements thereto, machinery and  
22 equipment of any and all kinds necessary to the project,  
23 operating capital and any other personal properties deemed  
24 necessary in connection with the project;

25 E. "mortgage" means a mortgage or a mortgage and

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1 deed of trust or the pledge and hypothecation of any assets as  
2 collateral security;

3 F. "health care [~~services~~] service" means the  
4 diagnosis or treatment of sick or injured persons or medical  
5 research and includes the ownership, operation, maintenance,  
6 leasing and disposition of health care facilities such as  
7 hospitals, clinics, laboratories, x-ray centers and pharmacies  
8 and, for any small municipality only, office facilities for  
9 physicians;

10 G. "refinance a hospital or 501(c)(3) corporation  
11 project" means the issuance of bonds by a municipality and the  
12 use of all or substantially all of the proceeds to liquidate  
13 any obligations previously incurred to finance or aid in  
14 financing a project of [~~any~~] a nonprofit corporation engaged  
15 in health care services, including nursing homes, or of [~~any~~]  
16 a 501 (c)(3) corporation, which would constitute a project  
17 under the Industrial Revenue Bond Act had it been originally  
18 undertaken and financed by a municipality pursuant to the  
19 Industrial Revenue Bond Act; and

20 H. "501(c)(3) corporation" means a corporation  
21 that demonstrates to the taxation and revenue department that  
22 it has been granted exemption from the federal income tax as  
23 an organization described in Section 501(c)(3) of the Internal  
24 Revenue Code of 1986, as amended or renumbered. "

25 Section 2. Section 3-32-4 NMSA 1978 (being Laws 1965,

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1 Chapter 300, Section 14-31-2, as amended) is amended to read:

2 "3-32-4. LEGISLATIVE INTENT.--It is the intent of the  
3 legislature by the passage of [~~Sections 14-31-1 through~~  
4 ~~14-31-13 NMSA 1953~~] the Industrial Revenue Bond Act to  
5 authorize municipalities to acquire, own, lease or sell  
6 projects for the purpose of promoting industry and trade other  
7 than retail trade by inducing manufacturing, industrial,  
8 filmmaking and other commercial enterprises to locate or  
9 expand in this state, promoting the use of the agricultural  
10 products and natural resources of this state and promoting a  
11 sound and proper balance in this state between agriculture,  
12 commerce and industry. It is intended that each project be  
13 self-liquidating. It is not intended [~~hereby~~] to authorize  
14 any municipality itself to operate any manufacturing,  
15 filmmaking, industrial or commercial enterprise. [~~Sections~~  
16 ~~14-31-1 through 14-31-13 NMSA 1953~~] The Industrial Revenue  
17 Bond Act shall be liberally construed in conformity with the  
18 [~~said~~] intent set forth in this section."

19 Section 3. Section 3-32-8 NMSA 1978 (being Laws 1965,  
20 Chapter 300, Section 14-31-5) is amended to read:

21 "3-32-8. SECURITY FOR BONDS.--The principal of and  
22 interest on any bonds issued under the authority of [~~Sections~~  
23 ~~14-31-1 through 14-31-13 New Mexico Statutes Annotated, 1953~~  
24 ~~Compilation~~] the Industrial Revenue Bond Act shall be secured  
25 by a pledge of the revenues out of which such bonds shall be

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1 made payable, may be secured by a mortgage covering all or any  
2 part of the project from which the revenues so pledged may be  
3 derived and may be secured by a pledge of the lease of such  
4 project or, if for a filmmaking project, by the prints,  
5 distribution or other contracts of the filmmaking enterprise.

6 The ordinance and proceedings under which [~~such~~] the bonds are  
7 authorized to be issued or any such mortgage may contain any  
8 [~~agreement~~] agreements and provisions customarily contained in  
9 instruments securing bonds, including without limiting the  
10 generality of the foregoing provisions respecting the fixing  
11 and collection of all revenues from any project covered by  
12 such proceedings or mortgage, the terms to be incorporated in  
13 the lease of [~~such~~] the project, the maintenance and insurance  
14 of [~~such~~] the project, the creation and maintenance of special  
15 funds from the revenues from [~~such~~] the project and the rights  
16 and remedies available in event of default to the bondholders  
17 or to the trustee under a mortgage, all as the governing body  
18 [~~shall deem~~] deems advisable and as [~~shall~~] are not [~~be~~] in  
19 conflict with the provisions of [~~Sections 14-31-1 through~~  
20 ~~14-31-13 New Mexico Statutes Annotated, 1953 Compilation~~] the  
21 Industrial Revenue Bond Act; provided, however, that in making  
22 any such agreements or provisions, a municipality shall not  
23 have the power to obligate itself except with respect to the  
24 project and the application of the revenues therefrom and  
25 shall not have the power to incur a pecuniary liability or a

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1 charge upon its general credit or against its taxing powers.  
2 The proceedings authorizing any bonds [~~hereunder~~] under the  
3 Industrial Revenue Bond Act and any mortgage securing [~~such~~]  
4 the bonds may provide the procedure and remedies in the event  
5 of default in payment of the principal of or the interest on  
6 [~~such~~] the bonds or in the performance of any agreement. No  
7 breach of any such agreement shall impose any pecuniary  
8 liability upon a municipality or any charge upon its general  
9 credit or against its taxing powers. "